

February 28, 1997

OREGON WATER RESOURCES DEPARTMENT
ADMINISTRATIVE RULES
CHAPTER 690
DIVISION 510
MALHEUR BASIN PROGRAM

Classifications

690-510-010 (1) The maximum economic development of this state, the attainment of the highest and best use of the waters of the Malheur Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife, and fish life uses, and the waters of the Malheur Basin are hereby so classified with the following exceptions:

(a) The maximum economic development of this state, the attainment of the highest and best use of the waters of the natural lakes of the Malheur Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, power development not to exceed 7 1/2 theoretical horsepower, recreation, wildlife, and fish life uses, and the waters of the natural lakes of the Malheur Basin are hereby so classified.

(b) Stored water may be used for any beneficial purpose.

(c) Storage, of up to 1000 acre-feet of water in the Malheur Basin, for domestic or livestock purposes authorized under water rights with priority dates after November 6, 1992, shall be exempt from regulation for storage of water reserved under OAR 690-510-110 through 120.

(d) Storage of water is a beneficial use in the Malheur Basin.

(2) The maximum economic development of this state, the attainment of the highest and best use of 1,454,000 acre-feet annually of natural flows of the Snake River, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, and irrigation uses, and the 1,454,000 acre-feet annually of natural flows of the Snake River are hereby so classified.

(3) Structures or works for the utilization of the waters in accordance with the aforementioned classifications are also declared to be prejudicial to the public interest unless planned, constructed, and operated in conformity with applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give cognizance to the multiple-purpose concept.

Statutory Authority: ORS Ch. 537

Stats. Implemented: ORS 537.249 and 537.356

Water Quality

690-510-020 Rights to use of water for industrial or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

Statutory Authority: ORS Ch. 537

Stats. Implemented: ORS 537.249 and 537.356

Reservations

690-510-100 (1) Reservations of water for economic development are established pursuant to ORS 537.249 and 537.356 to ensure sufficient surface water will be available in the future to meet expected needs. Economic development includes, but is not limited to, the production of goods and services and management of natural resources which contribute economic benefits through both instream and out-of-stream uses of water.

(2) "Multipurpose reservoir", as used in OAR 690-510-100 and 110, means a reservoir storing water to serve multiple potential beneficial uses such as irrigation, power generation, municipal water supply, recreation and flow augmentation for instream purposes.

(3) Reservations of water for future economic development in OAR 690-511-110 allocate surface water for storage in multipurpose reservoirs.

(4) In addition to the requirements of OAR Chapter 690, Division 310, an application for a permit to store reserved water shall include:

(a) An assessment of the effect of the proposed reservoir on fish and wildlife developed after consultation with the Oregon Department of Fish and Wildlife;

(b) An assessment of the effect of the proposed reservoir on water quality developed after consultation with the Oregon Department of Environmental Quality ;

(c) An analysis of water supply alternatives to the proposed reservoir, such as off-stream storage, water right transfers and implementation of conservation measures; and

(d) An analysis summarizing and describing how the proposed project will enhance instream values, including but not limited to instream flows.

(5) For the purposes of review of applications to store reserved water under OAR Chapter 690, Division 310, and subject to the provisions of section (7), the reserved quantities of water listed in OAR 690-510-110 are available for appropriation.

(6) The determination of water availability under section (5) shall not substitute for consideration during the public interest review of site-specific information related to the capacity of the resource to support the proposed project, as required under OAR Chapter 690, Division 310.

(7) In addition to any other findings required for issuance of a reservoir permit under OAR 690, Division 310, and prior to issuance of a permit for a proposed project storing water reserved under 690-510-110, the Department shall also find:

(a) The proposed reservoir is consistent with the purpose of the reservation following consultation with the Department of Agriculture and other state agencies;

(b) The proposed reservoir will enhance instream values, including but not limited to instream flows; and

(c) What storage season is appropriate and whether minimum bypass flows or other conditions should be included in the permit to insure no harm to senior water rights and to protect instream values.

(8) Permits to store reserved water shall receive the priority date of the reservation.

(9) If the Department has not received applications for multipurpose reservoir permits for the full quantity of reserved water by January 7, 2002, the Department of Agriculture shall provide the Commission with a progress report on development of the reservations. The report shall include information on the continued need for the reservations and the quantities of water reserved. The Department of Agriculture shall continue to provide progress reports at five year intervals while these rules are in effect unless the Department receives applications for multipurpose reservoir permits for the full quantity of reserved water.

(10) If the Department has not received applications for multipurpose reservoir permits for the full quantity of water reserved by January 7, 2017, OAR 690-510-110 shall automatically be repealed on January 7, 2017, unless extended by further rulemaking of the Water Resources Commission.

Statutory Authority: ORS Ch. 536 and 537

Stats. Implemented: ORS 536.310, 537.249, 537.356 and 537.358

Malheur Reservations

690-510-110 Unappropriated water is reserved for storage in multipurpose reservoirs to be constructed in the future. The priority date of the reservations is November 6, 1992. The quantity and source of reserved water is as follows:

(1) Thirty five thousand (35,000) acre-feet of the Malheur River and tributaries, excluding the North Fork and South Fork Malheur Rivers and tributaries, are reserved;

(2) Thirteen thousand two hundred (13,200) acre-feet of the South Fork Malheur River and tributaries are reserved.

Statutory Authority: ORS Ch. 537

Stats. Implemented: ORS 537.249 and 537.356

Note: The Malheur Basin is delineated on State Water Resources Board Map 10.6, available from the Water Resources Department.